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ATTORNEY GENERAL

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December 16, 2014

Mark Koch
500 Edith
PO Box 280
Sargent, NE 68874-0280

Re: *File No. 14-M-136; City of Sargent City Council; Complainant Mark Koch*

Dear Mr. Koch:

This letter is in response to your correspondence of October 20, 2014 in which you requested that this office investigate alleged violations by the Sargent City Council ("City Council") of the Nebraska Open Meetings Act, Neb. Rev. Stat. §§ 84-1407 through 84-1414 (Reissue 2014). In accordance with our normal procedures, we requested a response from the City Council after we received your complaint, and we subsequently received a response from Gwenda Horky, the City Clerk. We have now had an opportunity to review your allegations and the City Council's response in detail, and our conclusions are set out below.

We have identified your complaints about the October 13, 2014 City Council Meeting as: (1) the meeting occurred on a federal holiday, and (2) the City Council did not have copies of various materials available for you to take for your use.

Meeting on a federal holiday

Your first complaint is that the City Council met on a federal holiday. The October 13, 2014 meeting was held on Columbus Day. As we previously wrote to you on an identical complaint regarding the City Council's meeting on Columbus Day in 2013:

> The Open Meetings Act does not prevent a public body from convening on a holiday, a weekend, or any other day of the year. The City Council states it has met on Columbus Day for the past four years; employees of the City of Sargent do not have this day off as a holiday. There is no violation of the Open Meetings Act for holding an open meeting on Columbus Day.

The City Council's response to your complaint this year is that they have met on Columbus Day for the past five years. As with the 2013 meeting, there is no violation of the Open Meetings Act for meeting on a federal holiday.

Copies of materials

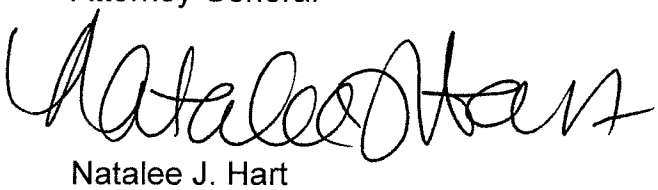
The Open Meetings Act requires that public bodies "make available at the meeting . . . for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting." Neb. Rev. Stat. § 84-1412 (8) (2014). The Open Meetings Act does not require a public body to have a copy of materials to be discussed for each member of the public to remove from the meeting room. It only requires one copy be available. The City Council has informed us that a copy of the materials to be discussed at the October 13, 2014 meeting was available, just as copies are available at each of its meetings. It is not a violation of the Open Meetings Act for the City Council to not allow you to remove the copy made available for public inspection from the meeting area. The City Council indicates that no copying equipment is available at the meeting site; however, you were permitted to inspect the materials which were discussed at the October 13, 2014 meeting and were instructed that copies for your personal use would be available at the City offices the next day. The City Council has not violated the Open Meetings Act with respect to your complaint.

Conclusion

For the reasons stated above, we do not believe the City Council violated the Open Meetings Act. If you disagree with the analysis we have set out above, you may wish to contact your private attorney to determine what additional remedies, if any, are available to you under the Open Meetings Act.

Sincerely,

JON BRUNING
Attorney General



Natalee J. Hart
Assistant Attorney General

Cc: Gwenda Horky

02-464-30